

modification or extension, must be evaluated in accordance with agency procedures for the elimination of ozone-depleting substances.

(A) The evaluation must be carried out within 60 days after the first modification or extension.

(B) No further modification or extension may be made to the contract until the evaluation is complete.

(ii) If, as a result of this evaluation, it is determined that an economically feasible substitute substance or alternative technology is available, the contracting officer shall modify the contract to require the use of the substitute substance or alternative technology.

(iii) If a substitute substance or alternative technology is not available, a written determination shall be made to that effect at a level no lower than a general or flag officer or a member of the Senior Executive Service of the requiring activity.

[70 FR 73151, Dec. 9, 2005]

Subpart 223.70 [Reserved]

Subpart 223.71—Storage and Disposal of Toxic and Hazardous Materials

SOURCE: 58 FR 28466, May 13, 1993, unless otherwise noted.

223.7100 Policy.

10 U.S.C. 2692 prohibits storage or disposal of non-DoD-owned toxic or hazardous materials on DoD installations, except as provided in 223.7102. DoD Instruction 4715.6, Environmental Compliance, implements 10 U.S.C. 2692.

[58 FR 28466, May 13, 1993, as amended at 67 FR 61516, Oct. 1, 2002]

223.7101 Procedures.

(a) If the contracting officer is uncertain as to whether particular activities are prohibited or fall under one of the exceptions in 223.7102, the contracting officer should seek advice from the cognizant office of counsel.

(b) When storage, treatment, or disposal of non-DoD-owned toxic or hazardous materials is authorized in accordance with this subpart, the con-

tract or authorization should specify the types, conditions, and quantities of toxic or hazardous materials that may be temporarily stored, treated, or disposed of in connection with the contract or as a result of the authorized commercial use of a DoD industrial-type facility.

[60 FR 61597, Nov. 30, 1995]

223.7102 Exceptions.

(a) The prohibition of 10 U.S.C. 2692 does not apply to—

(1) The storage of strategic and critical materials in the National Defense Stockpile under an agreement for such storage with the Administrator of General Services Administration;

(2) The temporary storage or disposal of explosives in order to protect the public or to assist agencies responsible for Federal law enforcement in storing or disposing of explosives when no alternative solution is available, if such storage or disposal is made in accordance with an agreement between the Secretary of Defense and the head of the Federal agency concerned;

(3) The temporary storage or disposal of explosives in order to provide emergency lifesaving assistance to civil authorities;

(4) The disposal of excess explosives produced under a DoD contract, if the head of the military department concerned determines, in each case, that an alternative feasible means of disposal is not available to the contractor, taking into consideration public safety, available resources of the contractor, and national defense production requirements;

(5) The temporary storage of nuclear materials or nonnuclear classified materials in accordance with an agreement with the Secretary of Energy;

(6) The storage of materials that constitute military resources intended to be used during peacetime civil emergencies in accordance with applicable DoD regulations;

(7) The temporary storage of materials of other Federal agencies in order to provide assistance and refuge for commercial carriers of such material during a transportation emergency;

(8) The storage of any material that is not owned by DoD, if the Secretary of the military department concerned